

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
NOVEMBER 2003 AGENDA
Item No. WC-5

<p>TITLE: Request by two school districts for a retroactive waiver of <i>Education Code</i> (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. The district had an audit finding for fiscal year 2002-2003 that they 1) failed to hold the public hearing, or 2) failed to properly notice (10 days) the public hearing and/or 3) failed to post the notice in the required three public places.</p> <p>CDSIS: 14-7-2003 – Turlock Joint Elementary SD 5-8-2003 – Woodville Union SD</p>	<p>_____ ACTION _____ INFORMATION _____ PUBLIC HEARING _____ <u>X</u> CONSENT</p>
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RECOMMENDATION:

The Department recommends: ☒ Approval.

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education (SBE) has heard and approved a policy developed by the department of Instructional Materials Sufficiency Waivers of Retroactive audit findings. None of these districts have had a prior year finding and waiver of this type, so this goes to consent.

Summary of Key Issue(s):

During audits for fiscal year 2002-2003, it was discovered that the above local educational agencies did not hold the public hearings notice of sufficiency of instructional materials, or post the notice for ten days prior to the public hearing or post the required notice in three public places as required by *EC* Section 60119.

Since then, the local educational agencies has held a fully compliant hearing and determined that it has sufficient instructional materials for each pupil in each school in the district. California Department of Education (CDE) staff verified all other requirements of the Specific Waiver request and none of the local educational agencies has had a previous waiver of this Education Code for the public hearing and ten day notice requirements and/or post the notice in three public places in the 1997-98, 1998-99, 1999-00 or 2000-01, 2001-02 years. Without the waiver, the local educational agencies will have to return **\$340,565** to CDE.

Therefore, since the local educational agencies has met the requirements for fiscal year 2002-2003, and agrees to comply with *E.C.* 60119 and ensure that the public hearing is held, notice the public hearing for ten days, and in three public places, CDE recommends approval of this waiver request.

Authority for the waiver: EC Section 41344.3

Effective dates of request: 7/1/02 to 6/30/03 Audit Year

Fiscal Analysis (as appropriate): This waiver if approved will relieve the district of **\$340,565** in total penalties.

Background Information:

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

Failure to Give Ten days Notice of the Public Hearing on the Sufficiency of Textbooks and Instructional Materials (within the 2002-2003 fiscal year)

CDSIS –14-7-2003–Turlock Joint Elementary School District

- Audit finding for the 2002-2003 fiscal year that would require the return of **\$319,127** in Instructional Materials funds.
- The district did not notice the public hearing for the ten days as required by Education Code Section 60119, instead they only posted the notice for three days.
- The district has since had a fully compliant hearing on July 3, 2003 and is now fully aware of the requirement.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS 5-8-2003-Woodville Union School District

- Audit finding for the 2002-2003 fiscal year that would require the return of **\$21,438** in Instructional Materials funds.
- An auditor found that the district posted the notice for the public hearing of instructional materials and textbooks sufficiency on August 20, 2002 for the hearing that was held on August 27, 2002. Therefore, the district did not meet the ten-day notice requirement of EC Section 60119.
- The district acknowledges the error and has changed the procedure for posting the notice to ensure that the same error will not occur again. A fully compliant hearing was held on August 13, 2003 that was properly noticed.
- CDE staff verified all other requirements of the Specific Waiver request.